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8 **UNITED STATES DISTRICT COURT**  
9 **SOUTHERN DISTRICT OF CALIFORNIA**  
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11 MARTIN VAZQUEZ,  
12 CDCR #D-18168,

13 Plaintiff,

14 vs.

15  
16 GEORGE A. NEOTTI; SUGLISH;  
17 B. KOEN; R. DAVIS; JANNUSH;  
18 PAYNE; JACA; HURBERT;  
19 DR. SEGAL; SANCHEZ,

20 Defendants.

Civil No. 11cv2352-IEG (PCL)

**Order**

**(1) Striking Previously Filed Fourth Amended Complaint [Doc. 21];**

**(2) Granting Plaintiff's Motion for Leave to File Fourth Amended Complaint;**

**(3) Directing Clerk to Issue Summonses on Fourth Amended Complaint**

21 By order filed April 6, 2012, the Court dismissed without prejudice Defendants  
22 Neotti, Suglish, Koen, Davis, Jannush, Payne, Jaca, Seagal and Sanchez because Plaintiff's  
23 Third Amended Complaint failed to allege any claims against them. The Court ordered  
24 service of the Third Amended Complaint only upon Defendant Hubert, the only person  
25 against whom Plaintiff made allegations in the Third Amended Complaint.

26 Thereafter, on April 18, 2012, the Court received<sup>1</sup> Plaintiff's Fourth Amended  
27 Complaint [Doc. 21], re-asserting claims against Defendants Neotti, Suglish, Koen, Davis,

28 <sup>1</sup>Magistrate Judge Lewis accepted the Fourth Amended Complaint for filing without ruling on or accepting for filing Plaintiff's accompanying motion for leave to amend.


1 Jannush, Sanchez, Hubert. On May 16, 2012, the Court received another Fourth Amended  
 2 Complaint from Plaintiff, asserting claims against Defendants Neotti, Suglish, Koen, Davis,  
 3 Jannush, Hubert, and Sanchez identical to those contained in the pleading filed on April 18,  
 4 2012. Plaintiff seeks leave to file this Fourth Amended Complaint.

5 Because Plaintiff did not obtain leave to file the prior pleading [Doc. 21], the Court  
 6 orders the pleading stricken from the record. However, the Court finds the interests of justice  
 7 would be served by allowing Plaintiff file one final amended pleading setting forth all of his  
 8 claims against all of the defendants. Therefore, the court GRANTS Plaintiff's motion for  
 9 leave to file Fourth Amended Complaint. The Clerk shall file Plaintiff's Fourth Amended  
 10 Complaint and it shall be the operative pleading in this case.

11 The Clerk is directed to issue a summons on Plaintiff's Fourth Amended Complaint as  
 12 to Defendants Neotti, Suglish, Koen, Davis, Jannush, Hubert<sup>2</sup>, and Sanchez. The Clerk is  
 13 directed to forward the summons to Plaintiff along with a blank U.S. Marshal Form 285 for  
 14 each of the seven defendants, a copy of the Court's November 17, 2011 order granting  
 15 Plaintiff leave to proceed IFP [Doc. 5], and copies of the Fourth Amended Complaint and  
 16 summons for purposes of serving each of the seven Defendants. Upon receipt of this "IFP  
 17 Package," Plaintiff is directed to complete the Form 285s as completely and accurately as  
 18 possible, and to return them to the U.S. Marshal according to the instructions provided by the  
 19 clerk in the letter accompanying his IFP package. Thereafter, the U.S. Marshal shall serve a  
 20 copy of the Fourth Amended Complaint and summons upon each Defendant as directed by  
 21 Plaintiff on each Form 285. All costs of service shall be advanced by the United States  
 22 pursuant to 28 U.S.C. § 1915(d) and Fed. R. Civ. P. 4(c)(3).

23 **IT IS SO ORDERED.**

24 **DATED: June 4, 2012**

25   
 26 **IRMA E. GONZALEZ** Chief Judge  
 27 **United States District Court**

28 <sup>2</sup>Although the Clerk previously issued summons for Defendant Hubert on the Third Amended Complaint, it appears Plaintiff has not yet forwarded those materials to the U.S. Marshal for service.